UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 16-260 (DSD)

UNITED STATES OF AMERICA, Plaintiff, v. RONALD LAWRENCE COURRIER, Defendant.	)))))))))	**GOVERNMENT'S POSITION REGARDING SENTENCING**

The United States of America, by its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota, and Katharine T. Buzicky, Assistant United States Attorney, hereby submits its position with respect to sentencing defendant Ronald Lawrence Courrier.

The United States respectfully requests that the Court adopt the factual findings and Guidelines calculations in the pre-sentence report (PSR) as its own. The United States believes a sentence of 120 months is just and reasonable in this case.

BACKGROUND

Ronald Courrier was a user of Website A, a members-only child pornography site on the Tor ("The Onion Router") network. (PSR, ¶ 6). Website A was dedicated to the exchange of child pornography and the promotion of child sexual abuse. Between approximately September 7, 2014 and March 4, 2015, Courrier logged into Website A site for 72 hours. (PSR, ¶ 14).

The fact that Website A existed on Tor is significant. Tor is part of the "dark Web," which facilitates anonymous communication over the Internet. Tor protects users' privacy online by bouncing their communications around a distributed network of relay computers run by volunteers all around the world, masking each user's Internet protocol (IP) address, which would otherwise identify a user. This feature makes it attractive to individuals who want to conceal criminal activity like child pornography trafficking.

In order to access Tor, a user must install special software on his computer. *Id*. Tor prevents others, including law enforcement, from learning what sites a user visits. It also prevents the sites visited by the user from learning the user's physical location and IP address. Because of the way Tor routes communication through other computers, traditional child pornography investigative techniques are nearly impossible, and forensic investigations often yield very little useful digital evidence. The operators of Website A were especially concerned with anonymity, providing warnings and tips to their members about the perils of identifying themselves online. *Id*.

Law enforcement officers became aware of Website A in 2014. Their investigation required highly complex technology, because of Tor's almost impenetrable anonymity. In February 2015, the FBI seized Website A from a web-hosting facility in North Carolina, pursuant to a search warrant issued by the United States District Court for the Western District of North Carolina. Next, FBI agents acting pursuant to a search warrant issued by the United States District Court for the Eastern District of Virginia monitored electronic communications of Website A members. To do so, the FBI deployed a Network Investigative Technique (NIT), to each user who logged in to Website A.

Each time a user logged into Website A with a username and password, the FBI deployed the NIT, which would then send one or more communications to the user's computer. Those communications caused the Website A user's computer to send data back to the FBI. FBI agents used the data to determine the identities and locations of many Website A members, including Ronald Courrier. Once they identified Website A members, FBI agents sent leads to their colleagues in field offices around the nation.

FBI Special Agent Maureen Lese received the lead relating to Ronald Courrier. On March 10, 2016, SA Lese executed a search warrant at Courrier's residence. Courrier admitted his use of Website A to find and download child pornography. He also admitted he is sexually attracted to children.

Forensic evidence showed that Courrier had 961 child pornography videos in his collection, many of which are extremely lengthy and depict children performing sexual acts. (PSR, ¶ 18).

In the fall of 2016, Courrier pleaded to an information charging him with one count of possession of child pornography, and has remained in custody since the date of the plea.

GUIDELINES CALCULATIONS

The PSR calculated a base offense level of 18, and a total offense level of 28. (PSR, ¶¶ 28, 41). Although Courrier has a 1999 conviction for the sexual assault of a child, he has a criminal history category of I. (PSR, ¶¶ 47, 48). Accordingly, the PSR calculates a Sentencing Guidelines range of 78 to 97 months, adjusted to 120 months by operation of the statutory mandatory minimum. (PSR, ¶ 82). The parties' calculation of the offense level and criminal history category is identical to that found in the PSR.

ARGUMENT

In *Gall v. United States*, 552 U.S. 38 (2007), the Supreme Court set forth the appropriate sentencing methodology: the district court calculates the advisory Guidelines range and, after hearing from the parties, considers the 18 U.S.C. § 3553(a) factors to determine an appropriate sentence. 552 U.S. at 49-50; *United States v. Ruvalcava-Perez*, 561 F.3d 883, 886 (8th Cir. 2009) ("In sentencing a defendant, the district court should first determine the appropriate Guidelines range, then evaluate whether a traditional departure is warranted, and finally decide whether or not to impose a guideline sentence after considering all the Section 3553(a) sentencing factors").

The district court may not assume that the Guidelines range is reasonable, but instead "must make an individualized assessment based on the facts presented." *Id.* at 50. Section 3553(a) requires the Court to analyze a number of factors, including, the nature and circumstances of the offense, the history and characteristics of the defendant, the need for the sentence to reflect the seriousness of the offense, the need for deterrence, the need to protect the public from further crimes of the defendant, and the need to avoid unwarranted disparities. *See* 18 U.S.C. § 3553(a).

A. The 3553(a) factors warrant a 120-month sentence

1. *The nature and circumstances of the offense*

Ronald Courrier participated in the dark and exploitative world of child pornography. That alone makes his crime a serious one. Child pornography is the eternal memorial of the rape and abuse of children. Congress and society rightly condemn its producers and its traffickers.

The most troubling aspect of Courrier's crime, however, is its sophistication. Having migrated to the "dark Web," Courrier is part of the leading edge of child pornography collectors. He deliberately used the Tor browser to mask his identity, making his crimes much harder to detect, prosecute, and punish. Website A allowed him to browse images and videos of sexual exploitation for months at his leisure, with a very low likelihood of detection.

2. *The history and characteristics of the defendant, and the need to protect the public*

The analysis of these Section 3553(a) factors is complex. Courrier has a prior conviction for sexually assaulting a very young child who was in his care. By all accounts, Courrier was a voracious and active consumer of child pornography. He admits he is sexually attracted to children, and he sees child pornography as the lesser of two evils. But child pornography cannot be a "substitute" for hurting more children. The pain that child pornography victims suffer is real. As one of Courrier's victims stated, "I can never feel safe so long as my images are out there; every time they are downloaded I am exploited again, my privacy is breached, and I feel in danger again." (PSR at 10–11).

3. *The need for deterrence*

Deterrence of future offenses against children is also an important consideration for the Court. As described above, Courrier's admitted attraction to children, combined with his technical savvy, increases the need for specific deterrence in this case.

However, general deterrence is also an appropriate sentencing goal in the federal system. *See Ferguson v. United States*, 623 F.3d 627, 631 (8th Cir. 2010); *United States v.*

Medearis 451 F.3d 918 (8th Cir. 2006) (noting that "[g]eneral deterrence … is one of the key purposes of sentencing"). Crimes like Courrier's cause lasting damage to our society and its most vulnerable members. This type of offense is rampant in our culture, facilitated by easy access to the Internet for those who view children as erotic objects. Frighteningly, the proliferation of Tor-based child pornography platforms like Website A will only make these crimes harder to deter. The Court is in a position to send a message loud and clear to those individuals who use Tor to exploit children—their crimes are all the more serious because of the great lengths they take to conceal them.

4. *The need to avoid sentencing disparities*

The United States is not aware of any unwarranted disparities that could arise if the Court imposes a 120-month sentence. Given the statutory mandatory minimum and taking into account the nature of Courrier's prior offense, a 120-month sentence is fair and appropriate in this case.

B. A supervised release term of ten years is appropriate and necessary

The law requires at least five years of supervised release, and permits the imposition of lifetime supervised release. *See* 18 U.S.C. § 3583(k). Because of Courrier's admitted attraction to children and his use of sophisticated techniques to obtain child pornography, the government believes he will need to be supervised for ten years following release. Having already found his way into one of the most cutting-edge child pornography communities, Courrier will require the close attention of a probation officer if he is to remain law-abiding.

CONCLUSION

Based on the foregoing and arguments to be made at sentencing, the United States respectfully asks that the Court sentence the defendant to a sentence of 120 months in prison, and a ten-year term of supervised release.

Dated: March 3, 2017

Respectfully submitted,

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